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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23364)
of MAURINE ISHAM to Appropriate)
From Treasure Spring and Treasure)
Spring Creek in Sierra County.)

Decision 1414

DECISION APPROVING APPLICATION

Maurine Isham having filed Application 23364 for a permit to appropriate unappropriated water; a protest having been received; the applicant and protestants having stipulated to proceedings in lieu of hearing as provided for by Title 23, California Administrative Code, Section 737; an investigation having been made by the State Water Resources Control Board pursuant to said stipulation; the Board, having considered all available information, finds as follows:

1. Application 23364 is for a permit to appropriate 552 gallons per day by direct diversion from October 1 of each year to June 1 of the succeeding year for domestic purposes from Treasure Spring and Treasure Spring Creek in Sierra County. The points of diversion are to be located within the SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 30, T20N, R15E, MDB&M.

Source of Water

2. Treasure Spring flows year round into Treasure Spring Creek which flows approximately 1,000 feet to join Cold Stream. Cold Stream joins Webber Creek, also referred

to as Bonta Creek, approximately one mile below Treasure Spring from which point it flows through Sierra Valley to enter Middle Fork Feather River.

Flows of Treasure Spring Creek

3. On June 12, 1961 the flow of Treasure Spring Creek at a county road crossing just above its confluence with Cold Stream was 0.4 cubic foot per second (cfs) (Decision D 1105, page 2). On October 7, 1971, the time of the field investigation on Application 23364, water from Treasure Spring was flowing in two channels. The flow in one of the channels was 0.4 cfs and the flow in the other was 0.2 cfs.

Applicant's Project

4. The applicant proposes to use the water covered by Application 23364 at a recently constructed home by means of an existing diversion system which also serves three other homes. The other users of water from Treasure Spring divert under authority of separate licenses (Licenses 8392, 8393 and 8394).

The applicant does not own the land on which Treasure Spring rises. Treasure Spring Creek is an alternate point of diversion in the event that access to Treasure Spring cannot be obtained. Any permit issued pursuant to Application 23364 should contain a term stating that the permit shall not be construed as conferring upon the permittee right of access to the points of diversion.

Statutory Adjudication

5. Pursuant to a statutory adjudication proceeding a decree determining the rights to the use of water from the Middle Fork Feather River, which included the flows of Treasure Spring Creek, was entered by the Superior Court, Plumas County, on January 19, 1940 (Action No. 3095).

Protestant G. Webber and other protestants claim rights to water from the Middle Fork Feather River and certain tributaries under the terms of this decree. They have no objection to the approval of Application 23364 if the diversion season is limited to the period from October 1 of each year to March 14 of the following year.

Existence of Unappropriated Water

6. Decision D 1105 adopted February 21, 1963 by the State Water Rights Board, predecessor of this Board, found that the supply of water in the area adjudicated by said decree is ordinarily inadequate to supply the holders of decreed rights during the period June 1 to October 1. Consequently, there is no unappropriated water in Treasure Spring and Treasure Spring Creek during that period. The Board found unappropriated water available in the sources included in the adjudication during the remainder of the year. This Board has no information which would justify a different conclusion at the present time.

There is unappropriated water available during the period October 1 of each year to June 1 of the following year, and, subject to suitable conditions, such water may be

diverted and used in the manner proposed during those times without causing substantial injury to any lawful user of water.

7. The intended uses are beneficial.

Necessity of Supplemental Supply

8. As the applicant's water requirements are for domestic purposes year round a permit covering only eight months of the year without an alternative or a supplemental supply would be of little value to her. However, the applicant has advised the Board by letter received February 11, 1972 that she is having a well drilled and there may be other means whereby the applicant's summer water requirements can be met without diminishing the supply upon which prior rights are dependent.

Any permit issued pursuant to Application 23364 should contain a term prohibiting the permittee from diverting until a firm supply of water is obtained for the period not covered by the permit.

From the foregoing findings, the Board concludes that Application 23364 should be approved and that a permit should be issued to the applicant subject to the limitations and conditions set forth in the order following.

The records, documents, and other data relied upon in determining the matter are: Applications 19121, 19233, 19265 and 23364 and all relevant information on file therewith, particularly the report of field investigation made October 7, 1971 in the matter of Application 23364.

ORDER

IT IS HEREBY ORDERED that Application 23364 be, and it is, approved, and that a permit be issued to the applicant subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 552 gallons per day by direct diversion from October 1 of each year to June 1 of the succeeding year.

Before any diversion is made under this permit, permittee shall submit evidence satisfactory to the Board to show that a firm supply of domestic water for the period June 1 through September 30 has been obtained and that water will not be diverted from Treasure Spring or Treasure Spring Creek during this period. Authority to continue the appropriation allowed by this permit is contingent upon maintaining the diversion works for said firm supply from June 1 to September 30 in good operating condition.

2. Complete application of the water to the proposed use shall be made on or before December 1, 1976.

3. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

4. All rights and privileges under this permit, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the

State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

Permittee shall take all reasonable steps necessary to minimize waste of water, and may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) restricting diversions so as to eliminate tailwater or to reduce return flow; (3) suppressing evaporation losses from water surfaces; (4) controlling phreatophytic growth; and (5) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. At any time after notice to affected parties and opportunity for hearing, the Board may impose specific requirements over and above those contained in this permit, with a view to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

5. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this

paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

6. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

7. Rights under this permit are, and shall be, subject to existing rights determined by the Middle Fork Feather River Adjudication, Superior Court, Plumas County, No. 3095, insofar as said adjudicated rights are maintained, and such other rights as may presently exist.

8. This permit shall not be construed as conferring upon the permittee right of access to the points of diversion.

Adopted as the decision and order of the State Water Resources Control Board-at a meeting duly called and held at Sacramento, California.

Dated: February 1, 1973

W. W. ADAMS
W. W. Adams, Chairman

RONALD B. ROBIE
Ronald B. Robie, Vice Chairman

E. F. DIBBLE
E. F. Dibble, Member

ROY E. DODSON
Roy E. Dodson, Member

ABSENT

Mrs. Carl H. (Jean) Auer, Member